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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,841	09/15/2003	Kenneth R. Schmidt	GP-303099	1190

7590 04/18/2005

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EXAMINER
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KERNS, KEVIN P

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/662,841	SCHMIDT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kevin P. Kerns	1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-16 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,9,15,19 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 14,16 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 20 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 14. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertels (US 3,202,793).

Bertels discloses a process and member for joining by welding light metals with steel, in which the process and member includes welding a metal sheet (steel plate 9, which has a planar surface on its side to be welded) to an edge of a metal bridging patch (zinc-plated strip member 10), with the strip 10 being welded on its other edge to an aluminum tube 8, such that the welds are fillet welds (12,13) accomplished in a

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conventional manner, including arc welding, for example (column 1, lines 11-13 and 59-72; column 2, lines 1-22; and Figures 1 and 2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3, 6, 7, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertels (US 3,202,793).

Bertels discloses the features of claims 1, 2, and 10 above. Although Bertels does not specifically disclose the use of spot welding, drawn arc welding, or a tube thickness, one of ordinary skill in the art would have recognized that selection of an

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optimum tube thickness would provide sufficient heat transfer properties while providing sufficient strength and rigidity to the structure. Furthermore, Bertels discloses "a conventional manner, e.g. by arc welding", but one of ordinary skill in the art would have recognized that other welding techniques, including spot welding and drawn arc welding, would have been obvious to the welding artisan, with selection of the welding technique being dependent on materials and/or dimensions of the workpieces to be welded.

***Allowable Subject Matter***

7. Claims 8, 9, 15, 19, and 21 are allowed.
8. Claims 14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: the reasons for indicating allowable subject matter for independent claims 8 and 15 are unchanged from those indicated in the prior Office Action. In addition, the prior art fails to teach or disclose a welded sheet-to-tube structure having the features of independent claim 10 and the following additional features: the metal sheet further comprises a roof panel of a vehicle (dependent claim 14); and the bridging patch has a major side to which the metal sheet is spot welded (dependent claim 16).

10. The indicated allowability of the subject matter from cancelled claim 4 (which was incorporated into independent claims 1 and 10) is withdrawn in view of the newly discovered reference(s) to Bertels. Rejections based on the newly cited reference(s) are indicated in above paragraphs 3 and 6.

### ***Response to Arguments***

11. The examiner acknowledges the applicants' amendment received by the USPTO on March 17, 2005. The amendment overcomes prior objections to the drawings and prior rejections under 35 USC 112, 2<sup>nd</sup> paragraph. However, new claim objections (duplicate claims) have been raised in the amendment. The applicants have cancelled claims 4, 5, 17, and 18, while adding new claims 19-21. Claims 1-3, 6-16, and 19-21 are currently under consideration in the application.

12. Applicants' arguments with respect to claims 1-3 and 6-16 (now claims 1-3, 6-16, and 19-21) have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571)

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272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin P. Kerns *Kevin Kerns 4/16/05*  
Primary Examiner  
Art Unit 1725

*KPK*  
kpk  
April 16, 2005